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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/763,877	01/23/2004	Elisabeth Defossa	DEAV2003/0004 US NP	6008
5487	7590	06/22/2006	EXAMINER WITHERSPOON, SIKARL A	
ROSS J. OEHLER SANOFI-AVENTSI U.S. LLC 1041 ROUTE 202-206 MAIL CODE: D303A BRIDGEWATER, NJ 08807			ART UNIT 1621	PAPER NUMBER
DATE MAILED: 06/22/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 1621

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 are rejected under 35 U.S.C. 102(b) as being anticipated by Wang et al (J. Agric. Food Chem. 1998).

Wang et al disclose a compound designated as Hapten II (p 3331). This compound represents a species of the compound of general formula I of the present invention and therefore anticipates the instant claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being obvious over Defossa et al (US 6,506,778).

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Defossa et al (US 6,506,778).

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The instant claims are drawn to acylphenylurea derivatives of formula I, and to a pharmaceutical composition comprising said derivative(s) and a method of using said derivative(s) for lowering blood sugar, i.e., treating type II diabetes.

Defossa et al teach acylphenylurea derivatives as pharmaceuticals for treating type II diabetes. The compound of formula (I) taught in Defossa et al is of the same scope of the compound of formula I of the instant claims, specifically, when substituent A of the compound in Defossa et al is a phenyl or substituted phenyl group.

The instant claims are therefore rendered obvious over Defossa et al because a person having ordinary skill in the art could readily select a compound in Defossa et al that is a species of the compound of general formula I of the present invention, and employ said compound to treat type II diabetes as suggested by Defossa et al.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-10 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 6,506,778.

Although the conflicting claims are not identical, they are not patentably distinct from each other because the compound of formula (I) taught in US 6,506,778 is of the same scope of the compound of formula I of the instant claims, specifically, when substituent A of the compound in US 6,506,778 is a phenyl or substituted phenyl group.

The instant claims are therefore not found to be patentably distinct because a person having ordinary skill in the art could readily select a compound in US 6,506,778 that is a species of the compound of general formula I of the present invention, and employ said compound to treat type II diabetes as is claimed in both the instant claims and those of US 6,506,778.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sikarl A. Witherspoon whose telephone number is 571-272-0649. The examiner can normally be reached on M-F 8:30-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman Page can be reached on 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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PATENT EXAMINER